

New law enacts requirements for tobacco product manufacturers who did not participate in the Master Settlement Agreement and who sell tobacco products in Louisiana.

New law makes the following findings:

- (1) On November 23, 1998, several states and several tobacco product manufacturers entered into a compromise settlement of a number of lawsuits which those states had filed against those tobacco product manufacturers. That agreement requires those tobacco product manufacturers to pay substantial amounts of money, some to the states directly, some for a national public health foundation, and some for certain programs aimed at reducing smoking among underage people.
- (2) A number of tobacco product manufacturers did not enter into the Master Settlement Agreement and thus would not be bound to contribute to these expenditures.

New law requires those tobacco product manufacturers who sell cigarettes in Louisiana to place in escrow certain sums of money. The amount of money is based on sales of cigarettes in Louisiana.

The stated purposes of new law include preventing the deriving of large, short-term profits by nonparticipating tobacco product manufacturers while at the same time ensuring that Louisiana will have a source from which to recover any damages which might be awarded if Louisiana eventually obtains a judgment against those manufacturers.

New law requires nonparticipating tobacco product manufacturers to place the following amounts in escrow:

1999	\$.0094241	per unit
2000	\$.0104712	per unit
2001 - 2002	\$.0136125	per unit
2003 - 2006	\$.0167539	per unit
2007 and thereafter	\$.0188482	per unit

New law provides that a "unit" is one cigarette, or the equivalent amount of tobacco for tobacco sold in "roll-your-own" form and that the amounts above will be adjusted for inflation. Provides that the interest on the escrow funds shall be paid to the tobacco product manufacturer.

New law provides that the escrow fund shall be released only under the following circumstances:

- (1) To pay a judgment or settled claim against the tobacco product manufacturer.
- (2) The tobacco product manufacturer proves that the amount placed in escrow for any one year exceeds the amount that the manufacturer would have had to pay for that year under the Master Settlement Agreement.
- (3) The funds have been in escrow for 25 years.

New law authorizes the attorney general to file suit against tobacco product manufacturers which do not place in escrow the amounts required by new law. Provides that manufacturers which are found to be in violation of new law

shall be required to place in escrow sufficient funds to be in compliance and authorizes a penalty of 5% per day of the amount improperly withheld, up to 100% of the amount improperly withheld. If the violation is a first offense knowing violation, the deposit of the improperly withheld funds must be made within 15 days and the penalty is increased to 15% per day up to 300% of the total amount improperly withheld. The penalty for a second offense knowing violation is a prohibition against selling cigarettes in Louisiana for two years. Each failure to make an annual deposit is a separate offense.

New law provides that a nonparticipating tobacco product manufacturer may avoid new law by becoming a participating manufacturer and performing its financial obligations under the Master Settlement Agreement.

Effective upon signature of governor (July 1, 1999).

(Adds R.S. 13:5061-5063)